

### REMARKS

Reconsideration of this application, as amended, is respectfully requested.

At the outset, it is gratefully acknowledged that the Examiner has kindly allowed Claim 1 and observed that Claim 3 would also be allowable if the previous suggestion is implemented.

It is submitted that the present amendment will resolve the outstanding issues relevant to pending Claims 3, 6, 14 and 15. Insofar as Claims 19 and 20 are concerned, the status of these claims is unclear. Claims 19 and 20 had been previously rejected under 35 U.S.C. § 112, second paragraph, for reasons set forth on page 4 of the Office action mailed March 18, 2004. In a good faith attempt to overcome the rejection, Applicants had responded by rewriting these claims in the Amendment of June 18, 2004. Presently, the Office Action Summary (under the heading "Disposition of Claims") indicates that Claims 19 and 20 are still rejected; the Detailed Action points out that Claims 19 and 20 are pending and under consideration. However, there are no grounds given for sustaining the rejection of the two claims. Therefore, clarification of the record is respectfully requested.

Turning to the Office action, the Examiner rejects Claims 3, 6 and 8 under 35 U.S.C. § 112, second paragraph, for reasons set forth on pages 2 and 3 of the action. Without comment on the merits of this rejection but to expedite matters, Applicants have rewritten Claims 3 and 6 for the better readability thereof. Claim 8 has been canceled. Since it is believed that the amendment overcomes the rejection, Applicants respectfully request that this rejection be withdrawn.

It is noted that the rejection of Claims 8-13 under 35 U.S.C. § 112, first paragraph, is rendered moot by the present amendment. Although Applicants maintain that there is no good basis for this rejection, Claims 8-13 have been canceled to place the application in condition for an immediate allowance.

The Examiner also rejects Claims 14 and 15 under 35 U.S.C. § 112, first paragraph, because in the Examiner's opinion, the specification, while being enabling for a method of propagating an avian HEV having a nucleotide sequence as set forth in SEQ ID NO:1 in an embryonated chicken egg, does not reasonably provide enablement for attenuating the virus by serially passing the virus until the virus is rendered attenuated. On pages 6 and 7 of the Office action, the Examiner focuses only on justifying the rejection as it pertains to the method of attenuating HEV. Based on the Examiner's comments, it is clear that the Examiner does not

reject the method of propagating or inactivating the avian HEV. Despite the fact that Applicants disagree with the reason for the rejection of the claim-recited method of attenuating HEV, Applicants have omitted the rejected method from Claim 14 and conformed the claims to the allowable subject matter in order to overcome the rejection. In view of the amendment, Applicants respectfully request that this rejection of Claims 14 and 15 be withdrawn.

As the Examiner will probably appreciate, the present amendment demonstrates Applicants' genuine attempt to claim the extent of the allowable subject matter. It is hoped that this amendment will suffice to permit the case to issue as a patent. If there are any outstanding issues, the Examiner is invited to contact the undersigned attorney for a quick resolution.

Accordingly, it is believed that the application is now in proper condition for an allowance. Favorable treatment is respectfully urged.

Respectfully submitted,  
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I hereby certify that this correspondence is being deposited with the U.S. Postal Service on February 17, 2005 with sufficient postage as first class mail in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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